

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NMP-6459

Petition of Cement Plant Solar, LLC for a certificate of)
public good, pursuant to 30 V.S.A. §§ 219a and 248, to)
install and operate a 498 kW group net-metered solar)
electric generation facility in Jamaica, Vermont)

Order entered: 9/4/2015

I. INTRODUCTION

This case involves a Petition filed by Cement Plant Solar, LLC (the "Petitioner") for a certificate of public good ("CPG") under 30 V.S.A. §§ 219a and 248, authorizing the installation and operation of a 498 kW group net-metered solar electric generation facility in Jamaica, Vermont (the proposed "Project"). In today's Order, we conclude that the Project, subject to conditions, does not raise a significant issue with respect to the applicable criteria of 30 V.S.A. §§ 219a and 248, that the Petition meets the standards of Vermont Public Service Board ("Board") Rule 5.100, and that the Project will promote the general good of the State.

II. PROCEDURAL HISTORY

On July 31, 2015, the Petition and associated materials were filed with the Board.

On August 21, 2015, the Department of Public Service (the "Department") filed comments on the Petition recommending the imposition of a condition related to public health and safety.

On August 25, 2015, the Department filed a letter with the Board withdrawing its request for the imposition of the condition.

No other filings were received within the comment period ending on August 21, 2015.¹

III. CONDITIONAL WAIVER OF REVIEW UNDER CERTAIN CRITERIA FOR NET METERING PROJECTS

Pursuant to 30 V.S.A. § 219a(c)(2)(A) and Board Rule 5.108(B), which provide that the Board may waive certain requirements of 30 V.S.A. § 248(b) that are not applicable to net metering systems, the Board has conditionally waived review of the following criteria for wind turbines and other systems which are installed on, as, or within a new structure, which is not a home or business:

- 30 V.S.A. § 248(b)(2) (need);
- 30 V.S.A. § 248(b)(4) (economic benefit);
- 30 V.S.A. § 248(b)(5) (greenhouse gases, public health, and safety);
- 10 V.S.A. § 6086(a)(1) (air and water pollution);
- 10 V.S.A. § 6086(a)(1)(C) (water conservation);
- 10 V.S.A. §§ 6086(a)(2) & (3) (sufficiency of water and burden on existing supply);
- 10 V.S.A. § 6086(a)(5) (transportation, except for impacts related to construction);
- 10 V.S.A. §§ 6086(a)(6) and (7) (municipal & educational services);
- 30 V.S.A. § 248(b)(6) (integrated plan);
- 30 V.S.A. § 248(b)(7) (electric energy plan);
- 30 V.S.A. § 248(b)(9) (waste-to-energy facilities); and
- 30 V.S.A. § 248(b)(10) (transmission facilities).

Petitions for systems greater than 150 kW in capacity must be filed in accordance with the requirements of Board Rule 5.110(C). The Petition need address only those criteria

1. On August 24, 2015, the Agency of Natural Resources ("ANR"), via e-mail, filed a letter with the Board recommending conditions regarding wetlands in the Project area. However, the comments are late filed and do not include an explanation as to why the comments are late or a request for a waiver of the comment deadline. Therefore, the comments are not appropriately considered here. Further, the evidence submitted with the petition indicates that the Petitioner conducted a site visit with ANR's District Wetlands Ecologist and has incorporated her recommendations in the design of the Project to avoid impacts to the wetlands and buffer zones. Therefore, even if ANR's comments had been timely filed, the agency has not shown why the additional conditions are necessary given that the Project has already been designed to avoid wetlands impacts.

applicable to the proposed system under Rule 5.108(B). Accordingly, because the Project is a solar electric generation system greater than 150 kW in capacity, only the criteria applicable to the system under Rule 5.108(B) are addressed in this Order.

IV. FINDINGS

Based upon the Petition and accompanying materials, the Board hereby makes the following findings.

30 V.S.A § 219a Requirements

1. The Petitioner has designated Robert and Charles Grant as the group administrators responsible for all communication concerning the group. Application at 3.
2. Meters will be added to or removed from the group pursuant to an agreement between the Petitioner and group members. Application at 3.
3. The Petitioner has identified the meters to be included in the group by number and location. The Petitioner has specified the manner of allocating credits generated by the Project. Application at 3.
4. The Petitioner will not require the Board, the Department, or Green Mountain Power Corporation ("GMP") to resolve a dispute within the group. Application at 4.

Description of the Project

5. The Project is a 498 kW AC solar generation facility that will produce power for William E. Dailey Precast, LLC's facilities. Application at 3.
6. The Project will be approximately 4 acres in size and will be located on an approximately 10-acre parcel that has historically been used for concrete and logging operations. The site is located off Route 100 in Jamaica, Vermont. Application at 1.
7. The Project consists of solar panels ground-mounted on a rack system, inverters, two new utility poles, overhead and underground utilities, and transformers. The Project also

involves extension of an existing gravel road, a concrete equipment pad and shed, and perimeter fencing. Application at 1-2; exhs. CPS-1, 4, and 8.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

8. The Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions and legislative bodies, and the land conservation measures contained in the town and regional plans. This finding is supported by finding 9, below.

9. There are no land conservation measures contained in the applicable regional or town plans that would prohibit the Project. The Jamaica Selectboard and Planning Commission have both filed letters with the Board endorsing the Project. Application at 4; exh. CPS-5.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

10. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Impact on System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

11. The Project will not adversely affect system stability and reliability. This finding is supported by finding 12, below.

12. GMP's Fast Track Analysis concluded that the Project will not require any distribution system upgrades that would require a Facilities Study. The Petitioner will enter into an interconnection agreement with GMP prior to commencement of operation. The Petitioner will implement and pay for any system upgrades determined by the interconnecting utility to be necessary to safely interconnect the net metering system. Application at 5; exh. CPS-4.

Economic Benefit to the State and Its Residents

[30 V.S.A. § 248(b)(4)]

13. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Public Health and Safety

[30 V.S.A. § 248(b)(5)]

14. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

**Aesthetics, Historic Sites, Air and Water Purity,
the Natural Environment**

[30 V.S.A. § 248(b)(5)]

15. The Project will not have an undue adverse impact on aesthetics, historic sites, air and water purity, or the natural environment. This finding is supported by findings 16 through 37, below.

Greenhouse Gas Emissions

[30 V.S.A. § 248(b)(5)]

16. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Outstanding Resource Waters

[10 V.S.A. § 1424(a)(d)] and [30 V.S.A. § 248(b)(8)]

17. The Project will not have an adverse impact on any outstanding resource waters because there are no outstanding resource waters in the Project area. Application at 5.

Air and Water Pollution

[10 V.S.A. § 6086(a)(1)]

18. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

19. The Project will not have an undue adverse impact on headwaters as the Project is not located in a headwaters area. Application at 5.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

20. The Project will meet all applicable health and Department of Environmental Conservation regulations regarding the disposal of wastes and will not involve the injection of waste materials or any harmful or toxic substances into groundwater or wells. Application at 6.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

21. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

22. The Project is not located within a floodway or floodway fringe and therefore will not restrict or divert the flow of flood waters, significantly increase the peak discharge of a river or

stream within or downstream from the Project, or endanger the health, safety, or welfare of the public or of riparian owners during flooding. Application at 6; exh. CPS-2.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

23. The Project will not have an undue adverse impact on streams as there are no streams in the vicinity of the Project. Application at 6.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

24. The Project will not have an adverse impact on any shorelines as there are no shorelines in the Project's vicinity. Application at 6.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

25. The Project will be located near two Class II wetlands. The Project has been designed to avoid all wetlands as well as a 50' buffer zone surrounding the wetlands. The closest wetland buffer area to the south of the Project is more than 100' from the perimeter fence. Pursuant to recommendations from the Agency of Natural Resources ("ANR"), the Project will utilize appropriate erosion control measures to ensure that the wetlands and buffer zones will not be disturbed during construction and the Project will not involve mowing of these areas during operation. Accordingly, the Project will not result in an undue adverse impact on wetlands. Application at 6; exh. CPS-7.

Sufficiency of Water and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(2) & (3)]

26. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this

proceeding.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

27. The Project will not cause undue soil erosion or reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results. This finding is supported by finding 28, below.

28. All construction related to the Project will be done in accordance with the Vermont Standards and Specifications for Erosion Prevention and Sediment Control and will follow ANR's *Low Risk Site Handbook for Erosion Prevention and Sediment Control*. Application at 7.

Transportation

[10 V.S.A. § 6086(a)(5)]

29. The Project will not cause undue traffic or congestion. This finding is supported by findings 30 and 31, below.

30. Construction of the Project will result in a minor and temporary increase in traffic to the site. Materials and equipment will be transported to the site using ordinary transportation services on local roads. Application at 8.

31. The Petitioner will apply for a VTrans permit related to a curb cut for Project access and will comply with all permit terms and conditions. Application at 8.

Educational and Municipal Services

[10 V.S.A. §§ 6086(a)(6) & (7)]

32. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

33. The Project will not have an undue adverse impact on aesthetics, historic sites, or rare and irreplaceable natural areas. This finding is supported by findings 34 through 36, below.

Aesthetics

34. The Project site is located off Route 100 on the site of a former concrete plant used historically for logging and concrete operations. The Project will be surrounded on all sides by dense vegetation, which will effectively screen visibility of the Project from surrounding areas. The Project will also be set back more than 50' from existing property boundaries and more than 100' from Route 100. Therefore, the Project will not be out of context with its surroundings and will not have an adverse impact on aesthetics. Exh. CPS-8.

Historic Sites

35. The State Division for Historic Preservation has reviewed the Petition and has determined that the Project will have no effect on historic sites. Exh. CPS-6.

Rare and Irreplaceable Natural Areas

36. There are no areas that would be considered rare and irreplaceable natural areas within or near the Project area. Application at 7; exh. CPS-7.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

37. The Project will not have an undue adverse impact on necessary wildlife habitat or threatened and endangered species as there are no rare, threatened, or endangered species in the area of Project improvements, and there is no necessary wildlife habitat on or near the Project site. Application at 7; exh. CPS-7.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

38. The Project will not unnecessarily or unreasonably endanger the public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function,

efficiency, or safety of, or the public's use or enjoyment of, or access to any such facility, service, or lands. The Project will create only temporary and minor traffic impacts on Route 100.

Application at 8.

Consistency With Company's Least-Cost Integrated Plan

[30 V.S.A. § 248(b)(6)]

39. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Compliance with Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

40. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

Waste-to-Energy Facility

[30 V.S.A. § 248(b)(9)]

41. The Project is not a waste-to-energy facility; therefore, this criterion is not applicable.

Existing or Planned Transmission Facilities

[30 V.S.A. § 248(b)(10)]

42. Pursuant to Board Rule 5.108(B), this criterion has been waived conditionally for the Project, and no party presented any testimony that warrants rescinding that waiver in this proceeding.

V. CONCLUSION

Based upon the findings above, we conclude that the Project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. §§ 219a or 248 and that the Project will promote the general good of the State.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board ("Board") of the State of Vermont that:

1. In accordance with the evidence and plans submitted in this proceeding, the photovoltaic group net metering system (the "Project") proposed for construction and operation by Cement Plant Solar, LLC (the "Petitioner") in Jamaica, Vermont, will promote the general good of the State of Vermont pursuant to 30 V.S.A. §§ 219a and 248, and a certificate of public good to that effect shall be issued in this matter.
2. Prior to commencing site preparation or construction of the Project, the Petitioner shall obtain all necessary permits and approvals. Construction, operation, and maintenance of the Project shall be in accordance with such permits and approvals.
3. The Petitioner shall follow the applicable interconnection procedures contained in Board Rule 5.500. The Petitioner shall implement and shall pay for any system upgrades determined by the interconnecting utility to be necessary to safely interconnect the net metering system.

Dated at Montpelier, Vermont, this 4th day of September, 2015.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/Margaret Cheney</u>)	
)	BOARD
)	
<u>s/Sarah Hofmann</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: September 4, 2015

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.